

### REMARKS

Claims 1, 3-8, 10, 11, and 13-17 are pending, with claims 1, 8, and 11 being independent. Applicants propose to amend claims 1, 3, 8, 10, 11, and 13, and to cancel claims 2, 9, and 12 without prejudice. These amendments would add no new matter. In particular, applicants propose to introduce the elements of claims 2, 9, and 12 into their respective independent claims 1, 8, and 11. Applicants also propose to amend claims 3, 10, and 13 to update their dependencies.

In addition, all amendments set forth above would raise no new issues that would require further consideration and/or search. Applicants submit that these amendments would place the claims into condition for allowance, or at least present the rejected claims in better form for consideration on appeal, and therefore request that the Examiner enter the proposed amendments after the final rejection under 37 C.F.R. § 1.116.

### 35 U.S.C. § 102

Claims 1-4 and 8-13 have been rejected as allegedly anticipated by PCT Patent Application WO 01/72226 A1 ("Zachrisson"). Applicants submit that Zachrisson fails to disclose or suggest the subject matter of amended independent claims 1, 8, and 11, and request that the Examiner reconsider this rejection for the following reasons.

Claims 1 and 8 recite an operating table that includes a bearing column, a table top mounted on the bearing column that is displaceable from a middle position transversely to a longitudinal axis of the table and tiltable about a tilting axis that is substantially parallel to the longitudinal axis of the table. Claim 1 further includes a control device that automatically activates a transverse displacement of the table top in a direction towards the middle position when a predetermined critical angle is exceeded during a tilting movement. Claim 8 further includes a means for automatically activating a transverse displacement of the table top in a direction towards the middle position when a predetermined critical angle is exceeded during a tilting movement.

Claim 11 recites a method of supporting an operating table, where the method includes supporting a table top of the operating table on a bearing column, tilting the table top about a tilting axis that is substantially parallel to a longitudinal axis of the table, and automatically displacing the table top towards a middle position transversely to the longitudinal axis of the table when a predetermined critical angle is exceeded during the tilting of the table top.

These claims cover an operating table with an important safety feature that enables the table to be stable during use. As described in the application, e.g., at page 1, lines 18-26, prior operating tables can have a stability problem if their tops are laterally outwardly displaced and additionally tilted outwards. This scenario can cause significant risk or even danger to a patient lying on the table as well as to staff using and controlling the operating table. The claimed invention is an operating table that is stable based on its claimed design. In particular, claims 1, 8, and 11 have been amended to clarify that the operating table includes a control device or means that automatically activates a transverse displacement of the table top in a direction towards the middle position transversely to the longitudinal axis of the table when a predetermined critical angle is exceeded during a tilting movement. The control device or means is a safety feature that prevents the operating table top from tilting into an unsafe, unstable position (see, e.g., page 5, lines 30-31 of the application).

In contrast, Zachrisson discloses a surgical table that can be transversely displaced while the table is in a tilted position, but without a control device or means to automatically activate a transverse displacement of the table top in a direction towards the middle position transversely to the longitudinal axis of the table when a predetermined critical angle is exceeded during a tilting movement. The table can be translated by a lateral floating means (6) (page 8, lines 3-10), and can be tilted by means of a tilting mechanism (4) having several links (7) and hydraulic cylinders (8) that are arranged such that the table tilts about an axis, A, that is located above the table top (page 9, lines 15-20).

The Office Action suggests that Zachrisson discloses “a control device (4) that automatically activates a transverse displacement of the table top in a direction towards the middle position during a tilting movement (page 13, lines 8 through 15)” (Office Action, at page

2). Applicants respectfully disagree, because this passage of Zachrisson, rather than disclosing such a control device, merely states that the tilt and the float of the table can be “program controlled.” Zachrisson fails to disclose or even suggest that the tilt and float of the table are controlled to automatically activate a transverse displacement of the table top in a direction towards the middle position when a predetermined critical angle is exceeded during a tilting movement.

The Office Action also alleges with respect to claim 2 that Zachrisson describes a control device that operates “when a predetermined critical angle is exceeded during a tilting movement” (page 9, lines 15 through page 10, line 3)” (Office Action at page 3). Again, applicants respectfully disagree, because this passage of Zachrisson fails to even mention a “critical angle” of any kind, much less disclose its use in a control device. To the contrary, this passage of Zachrisson merely describes the calculation of various lengths and distances “to obtain a four-link mechanism” to achieve a lateral tilting mechanism.

Nowhere does Zachrisson describe either measuring or using a critical angle to provide a safety mechanism for his table. Instead, Zachrisson uses other mechanisms to provide a more stable table. For example, Zachrisson attaches lateral tilting actuators to first and second frames in a manner that “guarantees the stability of the constructions” (at page 5, lines 1-3). In addition, Zachrisson describes the use of “[b]olts 48 on the second frame 10” to “act as motion stops for preventing over-centre tilting of frame 11 with respect to frame 9” (at page 10, lines 9-11). These are very different mechanisms to ensure stability than those recited in applicants proposed amended claims.

Thus, Zachrisson does not disclose or even suggest the invention of claims 1 and 8, or the method of claim 11.

For at least these reasons, applicants request reconsideration and withdrawal of this rejection and allowance of claims 1, 8, and 11. Claims 3 and 4 depend from claim 1 and are allowable for at least the same reasons that claim 1 is allowable. Claim 10 depends from claim 8 and is allowable for at least the reasons that claim 8 is allowable, and claim 13 depends from claim 11 and is allowable for at least the reasons that claim 11 is allowable

35 U.S.C. § 103

Dependent claims 5-7 and 14-17 have been rejected as allegedly obvious over Zachrisson in view of U.S. Patent No. 6,574,808 ("Brown"). Applicants request withdrawal of this rejection and allowance of these claims, because Brown fails to remedy the deficiencies of Zachrisson. In particular, Brown does not describe or even suggest automatic displacement of a surgical table top towards a middle position transversely to the longitudinal axis of the table during tilting of the table top or a control device or means for causing such a coordinated automatic displacement and tilting motion when a predetermined critical angle is exceeded.

Brown relates to an imaging table leveling system in which a inclinometer (120) measures a tilt angle of the imaging table and a processing unit causes the angle of the table to be adjusted to be at a true level based on a comparison of the tilt angle with a stored value (col. 3:5-17). However, Brown does not describe or suggest automatically displacing the table top during tilting of the table top, much less doing so based upon a "critical angle" as claimed.

The Office Action attempts to combine the two references, stating that it would have been obvious to one having ordinary skill in the art to modify Zachrisson's table to include Brown's control unit, and that the "the motivation would have been to provide means for automatically adjusting the position of the table top" (Office Action at page 6). However, nowhere does the Office Action point to language in either reference to support the alleged motivation. As the Examiner is no doubt aware, the motivation to combine the references must come from the references themselves, not from some hindsight reconstruction by the Examiner. See, *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125 (Fed. Cir. 1984)("the mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the modification").

In this case, a general motivation to provide means for automatically adjusting the table top does not provide any motivation, much less a showing of desirability, to modify Zachrisson's device by adding Brown's leveling system. Even if such a combination were attempted, it would still not provide the claimed invention. Applicants therefore submit that the Examiner has failed

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to establish a prima facie case of obviousness, and request reconsideration and withdrawal of the obviousness rejection and allowance of claims 5-7 and 14-17.

### CONCLUSION

Applicants request that the Examiner reconsider and withdraw all pending rejections and allow claims 1, 3 to 8, 10, 11, and 13 to 17. If the Examiner still believes, after considering the present amendments and remarks, that not all of the claims are allowable, then applicants request that the Examiner telephone the undersigned to conduct a telephone interview.

No fees are believed to be due at this time. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 18836-010001.

Respectfully submitted,

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